

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Broadcast Localism)	MB Docket No. 04-233
)	

**COMMENTS OF
PROMETHEUS RADIO PROJECT**

Prometheus Radio Project (“Prometheus”) respectfully submits these Comments in response to the Commission’s Notice of Proposed Rulemaking (“*NPRM*”) seeking comment on broadcast localism. While many of the proposed rules would certainly strengthen localism, we believe that some proposed rules need to be more carefully elaborated to make sure that they do not overly burden small local entities.

Therefore, we propose the following measures that will meet the Commission’s commitment to localism while avoiding unnecessary hurdles for stations to meet the requirements.

Unlike some other broadcasters who seek to undermine this entire proceeding, low power stations celebrate the opportunity to do local service. LPFM advocates, by these comments, hope to make sure that the rules finally adopted truly promote localism rather than undermining localism by imposing disproportionate requirements on local broadcasters. In this comment, we focus on areas in the FCC’s

recent localism notice that need response. However, we broadly support most of the overall aims and methods described in the FCC's notice and in the recommendations of public interest commenters. We particularly single out for approval the notion of a staff-level track for expedited processing of broadcast license renewals for those stations that make appropriate efforts to demonstrate their commitment to local broadcasting, and Commission-level evaluation of stations that choose not to avail themselves of reasonable reporting options.

I. The Commission Should Consider Alternative Requirements for 24-hour Staffing

Prometheus supports the notion that unattended stations pose a particular problem for emergency situations. Broadcasters have a responsibility to inform the public of an imminent disaster, and stations that are controlled from a remote city might not be able to report emergency information. However, requiring that stations are staffed by a person during all hours that they are on the air is burdensome for many community stations. These smaller stations are often run by volunteers and lack the resources to staff the station at all broadcast hours.

We thus propose alternative requirements for stations unable to satisfy this rule. For example, if a station cannot have a live person present during on-air hours, they must have the capacity to respond to emergency situations within 30 minutes, regardless of automation or having a person at the studio. Stations incapable of

guaranteeing a physical presence at the station within 30 minutes should have remote control capability, where the emergency operator is capable of generating program announcements that will go out over the air from their remote location. The station could be required to publish a phone number where an operator capable of controlling programming can be reached 24 hours a day, 7 days a week. This phone number should be listed prominently on the front page of the station's website, listed in the public file, and on file with local emergency managers. Stations that provide primary EAS coverage for an area, or stations that reach a certain threshold (e.g., 13 FTE or 25,000 watts) could be held to greater standards and be required to respond and pass messages through to other local/regional stations.

Prometheus suggests these modifications because as it stands, the Commission's proposed rule would force many stations to go off the air during non-peak hours. We feel that such a consequence would do little to serve the public interest.

II. The Commission Should Consider Alternative Options for Enhanced Disclosure

Prometheus agrees that full disclosure of programming is essential to improving available data about how stations are serving their communities, and supports the implementation of a standardized form to replace quarterly program lists. However, the proposed requirement would be most burdensome for stations that broadcast a variety of local programming, especially those that air public service

announcements and programming aimed at underserved communities. It is reported to us that public television stations often need a full-time staff person devoted entirely to producing the documentation necessary for enhanced disclosure requirements. This is far beyond the capacity of small community stations, many of whom have no staff at all. Therefore, we suggest that the Commission allow stations that air more than 4 hours of local original programming per day be exempt from enhanced disclosure. Alternatively, we believe that stations that meet the 56 point standard that we have described in the low power proceeding could be exempt from enhanced disclosure reporting requirements. These stations should be required to publish in the public file and on their website a copy of their weekly programming schedule, with locally produced programming appropriately identified. It has been suggested that lack of access to a website may be a burden to some, especially in highly rural areas with no broadband access. An appropriate exemption could be made in areas where there is no broadband available. But we emphasize that this requirement would simply be to establish a single webpage a single time, and to update it if there was a change to the regularly scheduled programming. We do not believe this to be beyond the capacity of organizations that are capable of running a radio station. This is especially reasonable since stations that are not capable of enhanced disclosure or meeting the above recommended requirements would not be “in trouble”—they would simply not be eligible for a preferentially expedited licensing renewal.

We do believe that some of the information described on a potential enhanced disclosure form would be of interest to the public, and support the collection of this information so long as it is not a constant stream of daily recordkeeping. A quarterly report may be a reasonable burden on broadcasters serving the public interest, but a daily record keeping requirement is not reasonable for operations of the size of low power broadcasters. Should the Commission decide that enhanced disclosure forms are needed in all cases for expedited license renewal processing, stations could comply with the type of enhanced disclosure form described, but they should not be required to notate every program and every topic every day. It should suffice to notate that a regularly scheduled show is a locally produced public affairs show on a given theme, without necessitating the description of every guest and topic of every show that is on the air.

III. The Commission Should Re-Examine Its Main Studio Waiver Policy

We believe that main studio waivers are being distributed too liberally to non-commercial stations. In some cases, these waivers are reasonable and necessary, but in many cases these waivers do not serve the public interest. A more appropriate standard for waiving the main studio rule should be developed, before the rule is rendered meaningless in the non-commercial context.

IV. The Community Advisory Board Proposal Merits Attention

Many low power stations and CPB qualified stations already have a variety of mechanisms for extensive community input into programming decisions. It would be a shame to corral these diverse approaches to community involvement into a single cookie cutter format. We believe that entities that own just a single station should be considered to have met the community advisory board requirement if at least 75% of their board of directors resides within the 60 dBu contour of the radio station.

One interesting option in lieu of a community advisory board might be to require that stations retain all emails or letters of complaint or commendation during the licensing period, and offer a summary of why the station accepted or rejected the various suggestions proffered in these communications. Stations should in no way be responsible to implement casual suggestions from listeners—but a document of this sort can provide a window to learn how responsive stations are to community concerns. This recommendation should not be construed as a potential requirement, just an option in lieu of a formal community advisory board for stations seeking expedited staff level renewal of their broadcast applications.

V. Small Business Definition

The FCC, like all federal agencies, must evaluate the impact of its actions on small businesses. This is a good thing, because often government regulations disproportionately impact small businesses--since often only larger companies have

the resources to meet new requirements. In this proceeding, this would be a particularly perverse outcome. The definition of a small business in radio is set very high:

515112 -- Radio Stations

The SBA has developed a small business size standard for Radio Stations, which consists of all such firms having \$6 million or less in annual receipts.FN1 Business concerns included in this industry are those "primarily engaged in broadcasting aural programs by radio to the public." FN2 According to Commission staff review of BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States had revenue of \$6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and, that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliationsFN3 are included. FN4 Our estimate, therefore, likely overstates the number of small businesses that might be affected by our action.

Citation: <http://www.fcc.gov/ocbo/sizestandards.html>

The FCC should re-evaluate this standard so it can be more useful in separating out large businesses from small businesses. Prometheus would not support using the current definition as a demarcation between policies governing large and small businesses in radio, but we would support using a more realistic standard that took

better account of cross ownership and lowered the threshold of revenue so that more radio stations were held accountable. Truly small businesses stations should have a different, appropriate level of expected compliance. We believe that small commercial owners should not pay for the abuses conducted by the large corporate chains. An intelligent definition of the difference may help to establish effective demarcations.

Conclusion

Prometheus supports efforts of the Commission to foster broadcast localism. Many of the proposed requirements are theoretically sound, but could be burdensome to small broadcasters if mis-implemented. We therefore suggest alternative options to meet the unattended operations, community advisory board, and enhanced disclosure requirements. We urge the Commission to consider that smaller broadcasters are the least able to afford compliance, and that their communities are often already served by their commitment to locally oriented programming.